



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 211-00
21 April 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 7 October 1963 for four years at age 17. The record reflects that you were advanced to PFC and served for 14 months without incident. However, during the 15 month period from December 1964 to March 1966 you received four nonjudicial punishments (NJP) and were convicted by two summary courts-martial and a special court-martial. Your offenses consisted of communicating certain suggestive and irregular words to a female civilian, two instances of sleeping on post as a sentinel, two instances of failure to obey a lawful order, absence from your appointed place of duty, loitering on post as a sentinel, and two periods of unauthorized absence (UA) totalling about 12 days.

The record further reflects that you reported to duty in Vietnam on 24 May 1966 and served without incident until 15 December 1966, when you were convicted by a third summary court-martial of disrespect to an NCO.

On 3 January 1967 you were convicted by a second special court-martial of two specifications of leaving your post without being properly relieved and two specifications of sleeping on post. You were sentenced to confinement at hard labor for six months, forfeitures of \$85 per month for six months, and a bad conduct discharge. However, the convening authority approved only so much of the sentence that provided for confinement at hard labor for three months and forfeitures of \$20 per month for three months.

On 2 June 1967 you were convicted by a third special court-martial of setting fire to an inhabited dwelling and participating in a breach of the peace. You were sentenced to confinement at hard labor for four months, forfeitures of \$85 per month for four months, and a bad conduct discharge. The Navy Board of Review affirmed the findings and the sentence on 18 August 1967.

The record reflects that you departed Vietnam on 21 August 1967 under guard to a temporary confinement facility in the United States. You were released from confinement on 11 September 1967 and were reported UA on 2 October 1967. You remained absent until you were apprehended by civil authorities and returned to military jurisdiction on 10 July 1968. On 2 August 1968, you were convicted by a fourth summary court-martial of the foregoing 258 day period of UA. You were sentenced to confinement at hard labor for 30 days. Thereafter, you waived your right to restoration to duty and requested that the bad conduct discharge be executed. You received the bad conduct discharge on 10 September 1968.

The Naval Discharge Review Board denied your request for an upgrade of your of discharge on 18 February 1981.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, Vietnam service, and the fact that it has been more than 41 years since you were discharged. The Board noted your contentions that you were given a bad conduct discharge because you fell asleep on post due to heat and a lack of sleep. The Board concluded that these factors and contentions were insufficient to warrant recharacterization of your discharge given your record of four NJPs and convictions by four summary courts-martial and three special courts-martial. Your contention that you were discharged for falling asleep is without merit. You were falling asleep on post before you were ever sent to Vietnam. You apparently forgot that the sentence of a bad conduct discharge by the second special court-martial was not approved. You received the bad conduct discharge at the third special court-martial for the more serious offenses of setting to

fire to an inhabited hut and participating in a breach of the peace. Your lost time due to UA and military confinement totalled about 768 days, more than two years. The Board concluded that you were guilty of too much misconduct to warrant recharacterization of your discharge to honorable or under honorable conditions. Accordingly, your application has been denied. The names and votes of the members of the panel will, be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director